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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/532,566	11/21/2005	Lionel Nicholas Mantzivis	000015.P001	3937

52418 7590 04/05/2010  
HAHN AND MOODLEY, LLP  
548 Market Street  
San Francisco, CA 94104

EXAMINER
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DESAI, HEMANT

ART UNIT	PAPER NUMBER
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3721

NOTIFICATION DATE	DELIVERY MODE
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04/05/2010

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

devasena@hahn moodley.com  
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<b>Office Action Summary</b>	<b>Application No.</b> 10/532,566	<b>Applicant(s)</b> MANTZIVIS, LIONEL NICHOLAS	
	<b>Examiner</b> Hemant M. Desai	<b>Art Unit</b> 3721	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 21 November 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-48 is/are pending in the application.
- 4a) Of the above claim(s) 20-34 and 48 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-19, 35-40 and 47 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)         | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)         | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                          |

**DETAILED ACTION**

***Election/Restrictions***

1. Applicant's election of Group I, claims 1-19, 35-40 and 47 in the reply filed on 2/16/2010 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claim 47 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 47 is vague, indefinite and confusing, because it is not clear which method steps are applicant is referring to, since there are not steps in claim 47.

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-2, 4, 6-7, 13-14 and 47 are rejected under 35 U.S.C. 102(b) as being anticipated by Poklukar (WO 91/04918).

Poklucar discloses a method of forming a bag, the method including providing an elongate tubular member (61, figs. 11-12) having opposed ends (61a, 61b), at least one end of which defines an open mouth, folding opposed portions of the tubular member to extend at least partially across the mouth (see figs. 11-12), positioning a panel (114) to extend across the opposed portions, and securing the panel and the opposed portions together (117, 118) thereby to close the mouth at the at least one end of the tubular member, which meets all the claimed limitations.

Regarding claim 2, Poklucar discloses that securing the panel and the opposed portions together includes securing a first portion of the panel and the opposed portions together so as to define at least one free portion of the panel which is free of the opposed portions (see figs. 11-12).

Regarding claim 4, Poklucar discloses to secure a first portion of the panel and the opposed portions together includes securing a generally middle portion of the panel and the opposed portions together so as to define two opposed free portions (120, 121) of the panel which are free of the opposed portions.

Regarding claims 6, 13, Poklucar discloses that the opposed portions of the tubular member are folded along a fold line and the at least one free portion of the panel extends beyond the fold line.

Regarding claims 7, 14, Poklucar discloses to secure the free portion of the panel to the tubular member beyond the fold line.

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 3, 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Poklukur in view of Wood (4877337).

Poklukur, as explained above, discloses all the claimed limitations, except for to form an aperture in the at least one free portion of the panel thereby to define a handle.

However, Wood discloses that it is well known in the art of bag making to provide the aperture in the at least one free portion of the panel (see fig. 18) thereby to define a handle. Thus, it would have been obvious to one of ordinary skill in the art to provide the aperture in the at least one free portion of the panel in the method of Poklukur to provide batter grip as taught by Wood. Using the known technique of providing aperture for providing handle in the bag of Wood would have been obvious to one of ordinary skill. ***KSR Int'l v. Teleflex Inc., 127 S. Ct. 1727, 1740-41, 82 USPQ2d 1385, 1396 (2007).***

8. Claims 8-12, 15-19 and 35-40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Poklukur in view of Rossiger (4691368).

Poklukur, as explained above, discloses all the claimed limitations, except for forming a cuff formation. However, Rossiger discloses that it is known in the art to provide the handle by cuff formation (36, fig. 7) to provide stronger handles. Thus, it

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would have been obvious to one of ordinary skill in the art to provide the cuff formation in the method of Poklukar to provide stronger handles as taught by Rossiger. Using the known technique of cuff forming for providing strong handle in the bag of Wood would have been obvious to one of ordinary skill. ***KSR Int'l v. Teleflex Inc., 127 S. Ct. 1727, 1740-41, 82 USPQ2d 1385, 1396 (2007).***

Regarding claims 35-40, the method of Poklukar as modified by Rossiger meets all the claimed limitations.

### ***Conclusion***

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hemant M. Desai whose telephone number is (571) 272-4458. The examiner can normally be reached on 6:30 AM-5:00 PM, Mon-Thurs..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi I. Rada can be reached on (571) 272-4467. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Hemant M Desai/  
Primary Examiner, Art Unit 3721